



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
D.H., N.H., K.H. f/k/a J.H., NATASHA MARTIN, :
TIFFANEY GRISSOM, ROSA GONZALEZ, :
ADRIENNE BANKSTON AND SARAH :
MARCHANDO, individually and on behalf of :
a class of all others similarly situated, :

Plaintiffs, :

v. :

ORDER

16-CV-7698 (PKC) (KNF)

THE CITY OF NEW YORK, SEAN KINANE, :
JOSEPH MCKENNA, KAYAN DAWKINS, :
THOMAS KEANE, MARIA IMBURGIA, KEVIN :
MALONEY, JOEL ALLEN, DAVE SIEV, BRYAN :
POCALYKO, CHIRSTOPHER SAVARESE, :
THOMAS DIGGS, JOEL GOMEZ, KEITH :
BEDDOWS, CHRISTIAN SALAZAR, HENRY :
DAVERIN, JOSEPH NICOSIA, KELLY QUINN, :
ALEXIS YANEZ, MICHAEL DOYLE, :
JOHN/JANE DOE NYPD POLICE OFFICERS :
#1-14; :

Defendants. :

-----X
KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE

Background

By a letter, dated August 30, 2017, the plaintiffs requested a pre-motion conference concerning

Defendants' refusal to produce documents and information responsive to Interrogatories Nos. 9 and 10 to the City and Interrogatory No. 7 to Individual Defendants, and Requests No. 1, 4, 6 and 8 of the Plaintiffs' First Set of Interrogatories and Requests for Production of Documents to Defendants dated February 7, 2017 (the "First Set of Requests"); Request No. 1 of Plaintiffs' Second Set of Requests for Production dated June 2, 2017 (the "Second Set of Requests") and Request No. 18 of Plaintiffs' Subpoenas for Deposition pursuant to Federal Rule of Civil Procedure 45 ("Subpoena Requests"). This letter also addresses Defendants' refusal to produce Defendant Christopher Savarese ['Savarese'] for a deposition.

On October 5, 2017, the Court held a conference with the parties, directing the defendants, inter alia, to provide, in response to Interrogatory Nos. 9, 10 and 7, and in connection with “the IAB complaint” at issue, the complainant’s identity, address and all contact information. Thereafter, the plaintiffs stated: “Our discovery requests were actually seeking all documents associated with the particular complaint besides just the identity of the complainants, so, this would include potentially investigation logs, witness statements or any other documentation relating to the details of the complaint.” When the Court noted that no document request was identified in paragraph II of the plaintiffs’ August 30, 2017 letter concerning the “IAB Complaint” in dispute, only the “Plaintiffs’ Interrogatories Nos. 9 and 10 to the City and Interrogatory No. 7 to the Individual Defendants,” the plaintiffs identified as pertinent Document Request No. 1. The Court directed the parties to submit supplemental materials in connection with: (1) Savarese’s deposition; and (2) the “IAB Complaint” at issue. The defendants submitted an affidavit by Frank J. Schwab, M.D. (“Dr. Schwab”), Chief of Spine Service at the Hospital for Special Surgery and a Professor of Clinical Orthopedic Surgery at Weill Cornell Medical College, stating that Savarese is scheduled for a surgery on October 30, 2017, and he “is physically unable to sit or stand for any extended period of time.” The parties submitted supplemental letters concerning the “IAB Complaint” at issue.

Savarese’s Deposition

Dr. Schwab indicated that Savarese “is physically unable to sit or stand for any extended period of time,” not that he is unable to answer questions. The plaintiffs proposed “accommodations to ensure that Defendant Savarese is as comfortable as possible during his

deposition, including by conducting his deposition at a location convenient for him outside of New York City, taking frequent breaks and deposing him in a reclining position.” The Court finds the plaintiffs’ proposed accommodations reasonable. Savarese’s deposition must be completed before October 30, 2017, by using the above-noted accommodations.

Document Request No. 1 Concerning the ‘IAB Complaint’ at Issue

Upon review of the parties’ submissions concerning the plaintiffs’ Document Request No. 1 in connection with the “IAB Complaint” at issue, the Court finds that the defendants’ summary of the subject “IAB Complaint,” including the complainant’s identity, address and all contact information, is responsive to the plaintiffs’ Document Request No. 1. The plaintiffs failed to convince the Court that any additional documents must be provided in connection with the subject “IAB Complaint.”

Dated: New York, New York

October 18, 2017

SO ORDERED:



KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE